

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1102 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

JANATASING @ JANATO S/O

THAKURSING @ PREMSING SARDAR

Versus

COMMISSIONER OF POLICE

Appearance:

MS DR KACHHAVAH for Petitioner

GOVERNMENT PLEADER for Respondent No. 1, 2, 3

CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 07/07/98

ORAL JUDGEMENT

In this petition under Article 226 of the Constitution of India, the petitioner has challenged the legality and validity of the order dated 19.12.1997, passed by the Police Commissioner, Ahmedabad city under section 3(1) of the Gujarat Prevention of Anti-Social Activities Act, 1985.

In the grounds of the detention supplied to the

petitioner, the detaining authority has placed a reliance on three criminal cases pending in the court against the petitioner for the various provisions of the IPC. Out of three criminal cases, one is pending trial and rest are pending inquiry. Over and above the same, the statements of four witnesses have been recorded, wherein they have stated about the alleged incidents dated 8.11.1997 and 6.11.1997 the petitioner has extorted money from the witness at the point of razor. As in the another incident, petitioner and the men left the vehicle of the witnesses without paying the fare and when the fare was being demanded, the witnesses was dragged from the vehicle and was beaten on the public road. On both the occasions, people gathered, however, they were disbursed when the petitioner rushed towards them with open knife and the atmosphere of terror was created. Considering this material, the detaining authority was of the view that the petitioner is a dangerous person within the meaning of section 2(c) of the Act, and, therefore, with a view to preventing him from acting in any manner prejudicial to the maintenance of public order, the detention order has been passed.

Learned advocate for the petitioner contended that even if the allegations made against the petitioner are accepted as true on their face value, it will not disturb the public order. It is the submission of the learned advocate for the petitioner that the alleged incidents are against the individual and the same are at the most be considered as the breach of the law and order. I find considerable substance in the submission of the learned advocate for the petitioner. As far as the present case is concerned, only one case is pending in competent court against the petitioner and investigation is going on with respect to remaining two cases regarding the alleged involvement of the petitioner. There nothing on record to show that the charge-sheet has been filed in the latter cases. Reading the statements of the witnesses for the alleged incidents dated 6.11.1997 and 8.11.1997, it is clear that without in any manner of doubt, that the alleged involvement of the petitioner is against an individual. The statements are general and vague in nature. Even if they are accepted, the same at the most can be construed as such breach of the law and order, but in no circumstances, can be described such as breach of public order. IN this view of the matter, I am of the opinion that branding the petitioner as dangerous person is not just and proper and, therefore, satisfaction arrived at by the detaining authority to that effect is not genuine and, therefore, the order of detention vitiates.

In the result, this petition is allowed. The impugned order of detention dated 19.12.1997 is set aside. The petitioner is ordered to be released forthwith, if he is not required for any other lawful reason. Rule made absolute.
